

COMMISSION FOR TEACHER PREPARATION AND LICENSING

OFFICE OF THE EXECUTIVE SECRETARY
1020 O STREET
SACRAMENTO, CALIFORNIA 95814



(916) 445-0184

20 August 1979

79-8005

TO: All Individuals and Groups Interested in the
Activities of the Commission for Teacher
Preparation and Licensing

FROM: Peter L. LoPresti, Executive Secretary *Peter L. LoPresti*

SUBJECT: Title 5 Regulations, Committee of Credentials

In accordance with Commission policy, the following Title 5 Regulations are being distributed prior to a public hearing. The public hearing has been scheduled as follows:

Thursday, October 4, 1979
2:00 p.m.
Mansion Inn
Pacifica A & B
16th & H Streets
Sacramento, CA 95814

Please feel free to duplicate and distribute these proposed Title 5 Regulations to anyone you believe might be interested in responding.

If you wish to make a presentation regarding the above to the Commission, please bring 30 copies of your material for distribution to the Commissioners and staff. If you can provide your statement to the Commission office 15 days before the public hearing, sufficient copies of the material will be duplicated and distributed for Commission and staff use. We would also appreciate a call to the Commission office if you plan to make a presentation in order to schedule sufficient time on the Agenda for people who wish to address the Commission.

Attachment

CHAPTER 3. COMMITTEE OF CREDENTIALS

Article

1. General Provisions
2. Duties and Functions of the Committee of Credentials;
Guidelines

DETAILED ANALYSIS

Article 1. General Provisions

Section

- 80300. Definitions
- 80301. Authority of the Committee of Credentials
- 80302. Meetings
- 80303. Quorum
- 80304. Calendar
- 80305. Continuance
- 80306. Action and Reconsideration

Article 2. Duties and Functions of the Committee of Credentials; Guidelines

Section

- 80307. Precedence of Matters on the Committee's Calendar
- 80308. Guidelines for Committee Consideration of Denial,
Revocation, or Suspension of Credentials
- 80309. Medical and Psychiatric Guidelines
- 80310. Probable Cause, What Is
- 80311. Reports of Dismissal, Resignation and Other Terminations
for Cause of Certificated Employees
- 80312. Initiation of Investigation
- 80313. Request to File Statement of Issues or Accusation Made
by Other Persons
- 80314. Discovery Rights and Procedure
- 80315. Right to Counsel
- 80316. Confidentiality of Investigative Material
- 80317. Notice of Meeting to Consider Allegations
- 80318. Action Committee May Take
- 80318.1. Reconsideration of Committee Action
- 80319. Notice of Committee Action; Form of Notice
- 80320. Consent Determinations
- 80321. Committee of Credentials' Reports to the Commission

CHAPTER 3. COMMITTEE OF CREDENTIALS

Article 1. General Provisions

1. 80300. Definitions. As used in this chapter:

2. (a) "Accusation" or "Statement of Issues" means a pleading, pursuant
3. to Section 11503 or 11504 of the Government Code which initiates an
4. administrative adjudicatory hearing to determine whether a credential
5. shall be denied, suspended, or revoked.

6. (b) "Applicant" means any person who has made application for a
7. credential to be issued by the Commission.

8. (c) "Adverse action" means any committee action other than a deter-
9. mination that no disciplinary action should be taken, with none justified.

10. (d) "Commission" means the Commission for Teacher Preparation and
11. Licensing.

12. (e) "Credential" means any credential, life diploma, certificate, or
13. document issued by or held under the jurisdiction of the Commission for
14. Teacher Preparation and Licensing which authorizes the holder to perform
15. services for which certification qualifications are required.

16. (f) "Investigation" means the process of collection and evaluation of
17. facts and evidence as a basis for determination of the truth or falsity
18. of allegations of misconduct or unfitness of a person to receive or to
19. hold a credential.

20. (g) "Licensee" means any holder of a valid credential or life diploma.

21. (h) "Respondent" means any person with respect to whom an investiga-
22. tion has been initiated or against whom an accusation or statement of
23. issues has been filed.

24. NOTE: Authority cited: Sections 44225, 44242, 44243. Education Code.
25. Reference: Section 44244. Education Code.

26. 80301. Authority of the Committee of Credentials.

27. (a) Subject to the standards provided in this chapter, the Committee
28. of Credentials has authority to:

29. (1) Receive allegations of misconduct or unfitness filed against
30. licensees and applicants for licenses issued by, or held under the
31. jurisdiction of the Commission for any cause specified in Education Code
32. Sections 44420, 44421, 44345, or any other provision of law or these
33. regulations for which such a credential may be denied, revoked, or
34. suspended by the Commission;

35. (2) Investigate such allegations; using the investigative facilities
36. of the Department of Justice or other appropriate facilities and personnel.

1. (3) Determine whether probable cause exists for the denial, sus-
2. pension or revocation of the credential, and if such cause does exist, to
3. initiate an adjudicatory hearing by the filing of an accusation or state-
4. ment of issues;

5. (4) To adopt and to amend procedures and forms for the expeditious
6. management of the Committees' business;

7. (5) To report its actions and decisions to the Commission with its
8. recommendations with respect thereto.

9. NOTE: Authority cited: Sections 44225, 44242, 44243, Education Code.

10. 80302. Meetings.

11. (a) The Committee shall meet at such times and places as it considers
12. necessary to perform its duties under this chapter.

13. (b) The Committee shall, no later than the last meeting of the year,
14. adopt a calendar indicating the dates, times, and places of meetings for
15. the following year, subject to the approval of the Commission.

16. (c) For good cause, the Chairperson of the Commission may approve a
17. Committee meeting at some other date, time, or place than that adopted
18. in Subsection (b).

19. NOTE: Authority Cited: Sections 44225, 44242, 44243. Education Code.

20. 80303. Quorum. A majority of the members shall constitute a quorum
21. for the transaction of business.

22. NOTE: Authority cited: Sections 44225, 44242, 44243. Education Code.

23. 80304. Calendar. All matters to be presented for consideration by the
24. Committee at a regular meeting shall be placed on the Committee's calendar
25. without undue delay.

26. NOTE: Authority Cited: Sections 44225, 44242, 44243. Education Code.

27. 80305. Continuance. All matters appearing on the calendar that are not
28. disposed of shall appear on the next calendar as items of unfinished
29. business.

30. NOTE: Authority Cited: Sections 44225, 44242, 44243. Education Code.

31. 80306. Action and Reconsideration. In any meeting of the Committee,
32. a vote of four concurring members is required to make any action effective
33. whether that action is to grant or to deny any request or other matter
34. properly before the Committee. Where a matter requires such action and a
35. motion to take such action fails for lack of four concurring votes, the
36. matter shall not be dropped from the calendar. Upon the adoption of a
37. motion to reconsider made by any member of the Committee at the same, or
38. any succeeding meeting, the matter shall be reconsidered. If a motion

1. to reconsider is not adopted within three months, the matter shall be
2. dropped from the calendar. A member of the Committee may participate
3. in the reconsideration of a matter even though he or she was not
4. present during the original consideration of the matter if the inter-
5. ested parties agree or if the member has reviewed a transcript of the
6. proceedings and/or other documents and evidentiary materials before
7. the Committee.

8. NOTE: Authority cited: Sections 44225, 44242, 44243. Education Code.

9. Article 2. Duties and Functions of the
10. Committee of Credentials;
11. Guidelines

12. 80307. Precedence of Matters on the Committee's Calendar.

13. (a) Any matter involving allegations of child abuse or misconduct or
14. unfitness which poses a hazard to students or other employees made
15. against persons who are presently employed in positions requiring certi-
16. fication qualifications shall be set for investigation and consideration
17. at the earliest possible time and shall take precedence over all other
18. cases except older cases of the same character and matters to which
19. special precedence may be given by law. All other matters shall be
20. placed upon the calendar in the following order of precedence:

21. (1) Matters involving persons presently or prospectively employed

22. in positions for which certification qualifications are required.

23. (2) Matters involving persons who have been suspended from, or

24. placed on compulsory leave of absence from positions requiring certifica-

25. tion qualification pursuant to Education Code Section 44940 and pending

26. disposition of criminal charges.

27. (3) Matters involving persons not presently or prospectively

28. employed in positions requiring certification qualifications.

29. (4) Matters involving persons absent from the State, or, whose

30. whereabouts are unknown.

31. (5) All other matters, including matters on judicial appeal.

32. NOTE: Authority cited: Sections 44225, 44242, 44243. Education Code.

1. 80308. Guidelines for Committee Consideration of Denial, Revocation,
2. or Suspension of Credentials.

3. (a) The Committee shall, in each case, conduct a careful and reasoned
4. investigation into the fitness and/or competence of the person to perform
5. the duties authorized by the credential applied for or held. Such investi-
6. gation shall be based upon consideration of facts which show the following:

7. (1) The extent to which the conduct has adversely affected students
8. or fellow teachers; and the probability that such adverse effects will
9. continue;

10. (2) The proximity or remoteness in time of the conduct;

11. (3) The type of certificate held by the person involved;

12. (4) The extenuating or aggravating circumstances surrounding the
13. conduct;

14. (5) The praiseworthiness or blameworthiness of the motives resulting
15. in the conduct;

16. (6) The probability that the questioned conduct will recur;

17. (7) The extent to which disciplinary action may inflict an adverse
18. impact or chilling effect upon the constitutional rights of the person
19. involved, or other certificated persons.

20. NOTE: Authority cited: Sections 44242, 44243. Education Code.
21. Reference: Section 44244, Education Code.

22. 80309. Medical and Psychiatric Guidelines.

23. (a) The Committee shall not initiate an administrative hearing solely
24. on the grounds that an applicant or licensee is suffering from a con-
25. tagious and communicable disease or other disease or defect of mind or
26. body unless probable cause appears from the evidence that:

27. (1) The condition of the applicant or licensee constitutes a health
28. hazard to students or persons with whom he or she must associate in
29. carrying out the duties authorized by the credential applied for or held; or,

30. (2) Because of the said disease or defect the applicant or licensee
31. is unable to perform the duties authorized by the credential applied for or
32. held.

33. (b) Any denial, suspension, or revocation of a credential pursuant to
34. this section shall be limited in duration to the period of actual disa-
35. bility; and the credential shall be granted or reissued upon presentation
36. of satisfactory evidence that such disability no longer exists.

37. NOTE: Authority cited: Sections 44336, 44337, 44338. Education Code.
38. Reference: Sections 44242, 44243. Education Code.

1. 80310. Probable Cause, What Is.

2. (a) For the purpose of these guidelines, probable cause is established
3. when the weight of the evidence before the Committee is sufficient to
4. cause a majority of the Committee to believe that the allegations of mis-
5. conduct or unfitness are true and that an administrative hearing thereon
6. would result in denial, suspension, or revocation of the credential in
7. issue.

8. (b) In arriving at its conclusion that probable cause is or is not
9. established, the Committee shall take into consideration any relevant
10. information, if it is the sort of information upon which responsible
11. persons are accustomed to rely in the conduct of serious affairs, including
12. but not limited to the following:

13. (1) Official records of judicial and public agencies;

14. (2) Verified statements of persons having knowledge of the facts,
15. including the respondent, who will be invited to submit such statements
16. or appear in person before the Committee.

17. (3) Statements and recommendations from employers and other respon-
18. sible persons having special knowledge of the fitness and character of the
19. licensee or applicant.

20. (4) Investigative reports prepared by the State Department of
21. Justice.

22. NOTE: Authority cited: Sections 44225, 44242, 44243. Education Code.
23. Reference: Section 44244. Education Code.

24. 80311. Reports of Dismissal, Resignation and Other Terminations for
25. Cause of Certificated Employees. Whenever any person holding a position
26. for which certification qualifications are required by law is dismissed,
27. resigns, or is otherwise terminated from such position as a result of
28. alleged acts or omissions, which appear to constitute probable cause for
29. the revocation or suspension of any credential issued by or held under
30. the jurisdiction of the Commission for Teacher Preparation and Licensing,
31. the employer of such certificated person shall within 30 days notify the
32. Commission of such dismissal, resignation, or other termination and shall
33. include its recommendation with respect to whether the Committee of
34. Credentials should review the matter, together with the facts which
35. justify such review, if recommended.

36. NOTE: Authority cited: Section 44225. Education Code.
37. Reference: Sections 44420, 44421, 44345. Education Code.

38. 80312. Initiation of Investigation.

39. (a) An investigation pursuant to Education Code Section 44244 shall
40. be initiated when any of the following occurs:

1. (1) Notice is received from any agency of government showing arrest
2. for, or conviction of any applicant for, or holder of any credential,
3. where it appears that the arrest or conviction arises out of acts or
4. omissions which constitute grounds for denial of an application for iss-
5. uance or review of an application, or suspension, or revocation of the
6. credential;
7. (2) Notice is received pursuant to Section 80311 that a person
8. holding a position for which certification qualifications are required
9. by law has been dismissed, has resigned, or has otherwise been terminated
10. from such position as a result of alleged acts or omissions which consti-
11. tutes probable cause for revocation or suspension of his or her credential,
12. and where the employer of such certified person has recommended investiga-
13. tion of the matter by the Committee;
14. (3) Notice containing statement of facts is received from any credi-
15. ble, identifiable person showing that a licensee or applicant has committed
16. acts or omissions which constitutes probable cause for denial, suspension,
17. or revocation of his or her credential.
18. (4) Receipt of a Request to File Statement of Issues or Accusation
19. pursuant to Section 80313.
20. (b) Where notice is received pursuant to Penal Code Sections 291 or
21. 291.1 or Section 11591 of the Health and Safety Code, of the arrest of
22. any certificated school employee for offenses specified therein, the
23. Committee shall ascertain whether such person has been placed on compul-
24. sory leave of absence from his/her position and if so, shall take no
25. final action until disposition of the charges by the court.
26. NOTE: Authority cited: Section 44225. Education Code.
27. Reference: Sections 44244, 44940. Education Code.
28. 80313. Request to File Statement of Issues or Accusation Made by Other
29. Persons.
30. (a) Any person may request the Committee to file a statement of issues
31. or accusation against an applicant for a credential or its renewal, or a
32. credential holder, as follows:
33. (1) The request shall be in writing and signed by the person
34. filing the charge, and shall identify the person to be charged;
35. (2) The request shall set forth in ordinary and concise language
36. the particular acts or omissions with which the person is charged, and
37. in such detail as is reasonably necessary to enable the Committee to
38. understand the nature of the charges and their significance. Such
39. request may, but need not, specify the statutes or regulations alleged
40. to have been violated.

1. (3) Where the acts or omissions alleged are not within the
2. personal knowledge of the person filing the request, such request
3. shall be accompanied by statements of facts from one or more persons
4. who do have personal knowledge of the acts or omissions alleged.
5. Each shall be dated and signed and include the following statements:
6. "I certify under penalty of perjury that the facts stated herein are
7. true and correct" and showing the county where signed.

8. (b) Upon receipt of a request to file charges as provided herein,
9. the Committee shall immediately initiate an investigation as provided
10. in Section 80312.

11. NOTE: Authority Cited: Sections 44225, 44244. Education Code.

12. 80314. Discovery Rights and Procedure.

13. (a) After initiation of an investigation by the Committee, the appli-
14. cant or licensee or attorney is entitled to obtain the names and addresses
15. of witnesses to the extent known to the Committee, including but not
16. limited to, those intended to be called to testify at a Committee hearing,
17. and to inspect and make a copy of any of the following in the possession
18. or custody or under the control of the Committee:

19. (1) A statement of a person other than the person named in the
20. initial Request to File a Statement of Issues or Accusations, or any
21. additional pleading, when it is claimed that the act or omission of
22. the respondent, as to such person, is the basis for the investigation;

23. (2) A statement pertaining to the subject matter of the investi-
24. gation made by any party to another;

25. (3) Statements of persons having personal knowledge of the acts,
26. omissions, or events which are the basis for the proceeding not included
27. in (1) or (2) above;

28. (4) All writings, including but not limited to, reports of mental
29. and physical examinations and other things which the Committee then pro-
30. poses to offer in evidence;

31. (5) Any other writing or thing which is relevant and which would
32. be admissible in evidence;

33. (6) Investigative reports made by or on behalf of the Committee
34. or other party pertaining to the subject matter of the proceeding to the
35. extent such reports

36. (A) Contain the names and addresses of witnesses or of persons
37. having personal knowledge of the acts, omissions, or events which
38. are the basis of the investigation;

39. (B) Reflect matters perceived by the investigator, or in the
40. course of his or her investigation; or

41. (C) Contain or include by attachment any statement or writing
42. described in (1) to (5), inclusive, or summary thereof.

1. (b) For the purposes of this section, "statements" include written
2. statements by a person, signed or otherwise authenticated by him or
3. her, stenographic, mechanical, electrical, or other recordings or
4. transcripts thereof, of oral statements by the person and written
5. reports or summaries of such oral statements.

6. NOTE: Authority cited: Section 44225. Education Code.
7. Reference: Section 11507.6, Government Code.

8. 80315. Right to Counsel. The respondent applicant or licensee may
9. be represented by counsel during any stage of investigation by the
10. Committee.

11. NOTE: Authority cited: Section 44225. Education Code.

12. 80316. Confidentiality of Investigative Material. All documents,
13. statements, or other matter collected or acquired by the Committee in
14. the course of an investigation shall be confidential and shall not,
15. except pursuant to authorization of the Committee or Commission be
16. disclosed to any other person.

17. NOTE: Authority cited: Section 44225. Education Code.
18. Reference: Section 44248. Education Code.

19. 80317. Notice of Meeting to Consider Allegations. At least 30 days
20. prior to a meeting or hearing of the Committee to consider allegations
21. against a licensee or applicant, he or she shall be notified personally
22. or by registered mail. Such notice shall contain all allegations to be
23. considered and shall specify the acts or omissions upon which the allega-
24. tions are based; together with a statement that if the allegations are
25. true, they are sufficient to cause his or her application or credential
26. to be denied, suspended, or revoked.

27. NOTE: Authority cited: Section 44244. Education Code.
28. Reference: Section 44244. Education Code.

29. 80318. Action Committee May Take.

30. (a) If the Committee, upon completion of its inquiry and consideration
31. of the guidelines provided in Section 80308 or 80309, does not believe
32. that the allegations are true; or that if they are true, the Committee
33. does not reasonably believe that an administrative hearing would result
34. in denial, revocation or suspension of the person's credential, it shall
35. terminate the proceeding.

36. (b) If the Committee believes that the allegations are true and that
37. pursuant to the guidelines provided in Section 80305 there is probable
38. cause for denial, revocation, or suspension of the credential, it shall
39. direct the Executive Secretary to file, and the Executive Secretary
40. shall file, a Statement of Issues or an Accusation against the person as
41. provided by law.

1. 80318.1. Reconsideration of Committee Action.

2. The Committee may, and on the direction of the Commission shall,
3. reconsider its action under either (a) or (b) of Section 80318 if a
4. petition for reconsideration is filed by any person or entity who
5. initiated the investigation or review pursuant to Section 80311,
6. 80312, or 80313 within 30 days after service of the notice required
7. under Section 80319. Such petition shall be in writing and shall
8. state the facts and reasons for such reconsideration. The Committee
9. shall place the petition upon its calendar for its next meeting, and
10. shall report its action, if any with respect thereto, to the Chair-
11. person of the Commission within 5 days after such meeting.

12. NOTE: Authority cited: Sections 44242, 44243. Education Code.
13. Reference: Section 44244. Education Code.

14. 80319. Notice of Committee Action; Form of Notice.

15. (a) A written copy of the determination of the Committee together
16. with a notice of appeal rights available shall be delivered to the
17. respondent personally or sent by registered mail to his or her last
18. known address within 30 days after the meeting or hearing at which the
19. determination is made. A copy of the said determination shall be
20. mailed to any person who has filed a Request To File charges pursuant
21. to Section 80313 or a recommendation to review pursuant to Section 80311.

22. (b) The notice of determination shall be substantially in one of the
23. following forms:

24. (1) "No probable cause has been found to deny your application for
25. issuance of a credential or its renewal; and the same shall be granted
26. forthwith."

27. (2) "No probable cause has been found to cause your credential to
28. be revoked or suspended; and the investigation is herewith closed."

29. (3) "Probable cause has been found to cause your application for
30. a credential or its renewal to be denied and the same is herewith denied,
31. and said decision will become final unless you contest this decision.
32. You may do so within 30 days hereafter by addressing your request for an
33. administrative hearing to:

34. Commission for Teacher Preparation and Licensing
35. 1020 O Street - Room 222
36. Sacramento, CA 95814

1. (4) "Probable cause has been found to cause your credential to
2. be suspended or revoked. An administrative hearing to determine whether
3. your credential shall be revoked or suspended shall be initiated by the
4. filing of an accusation against you which shall be served upon you within
5. 30 days hereinafter, and shall include notice of your rights to appear
6. and be heard and the consequences of your failure to do so, all pursuant
7. to Government Code Section 11505."

8. (c) When actions to initiate proceedings to deny, suspend, or revoke
9. a credential, the employing school district shall be notified.

10. NOTE: Authority cited: Section 44244. Education Code.
11. Reference: Sections 44242, 44243. Education Code.

12. 80320. Consent Determinations. At any time after the Committee has
13. determined that a Statement of Issues or an Accusation shall be filed
14. against a respondent, but before a final determination of the matter
15. has been made by the Commission, the respondent may propose and the
16. Committee may recommend to the Commission a settlement upon terms which
17. include a plan for rehabilitation or requalification of the respondent
18. within a specified time, consistent with other provisions of law.

19. NOTE: Authority cited: Sections 44242, 44243. Education Code.

20. 80321. Committee of Credentials Reports to the Commission. The
21. Committee of Credentials shall report its actions to the Commission from
22. time to time and shall provide any specific information requested by the
23. Chairperson of the Commission.

24. NOTE: Authority cited: Sections 44242, 44243. Education Code.